

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

EMMIS TELEVISION BROADCASTING  
L.P.,

Plaintiff,

CV. 06-1004-PK

OPINION AND ORDER

v.

TRAVELCENTERS OF AMERICA, INC., and  
TA OPERATING CORPORATION,

Defendants.

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PAPAK, Magistrate Judge:

This matter came on for trial on July 31, 2007, with a post-trial hearing on August 16, 2007. Following trial, defendants requested this court's order compelling plaintiff to pay their expert's fees for time incurred in responding to plaintiff's request that the expert submit to deposition. Specifically, defendants request their expert's fees in the amount of \$962, reflecting three hours' time spent in deposition at \$150 per hour, three hours travel time at \$150 per hour, and \$62 in parking and mileage costs. Plaintiff offers to pay \$450, reflecting two hours of deposition and one hour of pre-deposition preparation time.

According to Rule 26(b)(4)(C) of the Federal Rules of Civil Procedure, "unless manifest injustice would result, ... the court shall require that the party seeking discovery pay the expert a

*reasonable fee* for time spent in responding to discovery. . . ." Fed.R.Civ.P. 26(b)(4)(C) (emphasis supplied). Generally, travel time for experts has been held compensable. *See, e.g., David Tunick, Inc. v. Kornfeld*, 151 F.R.D. 534, 536 (S.D.N.Y. 1993). The courts have, however, compensated travel time at a lower rate than is awarded for time spent providing expert testimony. *See, e.g., Frederick v. Columbia Univ.*, 212 F.R.D. 176, 177 (D.N.Y. 2003).

The transcript of defendants' expert's deposition indicates that the expert was deposed from 8:58 am to 10:56 am on May 14, 2007. The evidence suggests that the expert was required to travel approximately 100 miles in total to attend and return from his deposition, and incurred approximately \$62 in parking and mileage costs. I find that defendants are entitled to reimbursement of their experts' fees incurred in responding to plaintiff's discovery requests in the amount of \$300 for two hours of deposition compensated at \$150 per hour, \$300 for three hours of travel compensated at \$100 per hour, and \$62 in parking and mileage costs.

Plaintiff is therefore ordered to reimburse defendants in the amount of \$662.00 for expenses incurred by defendants' expert witness in connection with his deposition by plaintiff's counsel.

Dated this 27th day of September, 2007.

/s/ Paul Papak  
Honorable Paul Papak  
United States Magistrate Judge